

HB3504



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3504

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

20 ILCS 3960/6
20 ILCS 3960/8.5

from Ch. 111 1/2, par. 1156

Amends the Illinois Health Facilities Planning Act. Makes changes concerning: (i) the permit and exemption process for changes of ownership among related persons; (ii) an application to close a health care facility; and (iii) an application to discontinue a category of service. Effective immediately.

LRB099 09189 JLK 31640 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Health Facilities Planning Act is
5 amended by changing Sections 6 and 8.5 as follows:

6 (20 ILCS 3960/6) (from Ch. 111 1/2, par. 1156)

7 (Section scheduled to be repealed on December 31, 2019)

8 Sec. 6. Application for permit or exemption; exemption
9 regulations.

10 (a) An application for a permit or exemption shall be made
11 to the State Board upon forms provided by the State Board. This
12 application shall contain such information as the State Board
13 deems necessary. The State Board shall not require an applicant
14 to file a Letter of Intent before an application is filed. Such
15 application shall include affirmative evidence on which the
16 State Board or Chairman may make its decision on the approval
17 or denial of the permit or exemption.

18 (b) The State Board shall establish by regulation the
19 procedures and requirements regarding issuance of exemptions.
20 An exemption shall be approved when information required by the
21 Board by rule is submitted. Projects eligible for an exemption,
22 rather than a permit, include, but are not limited to, change
23 of ownership of a health care facility and discontinuation of a

1 health care facility or category of service. For a change of
2 ownership of a health care facility ~~between related persons,~~
3 the State Board shall provide by rule for an expedited process
4 for obtaining an exemption in accordance with Section 8.5 of
5 this Act. In connection with a change of ownership, the State
6 Board may approve the transfer of an existing permit without
7 regard to whether the permit to be transferred has yet been
8 obligated, except for permits establishing a new facility or a
9 new category of service.

10 (c) All applications shall be signed by the applicant and
11 shall be verified by any 2 officers thereof.

12 (c-5) Any written review or findings of the Board staff or
13 any other reviewing organization under Section 8 concerning an
14 application for a permit must be made available to the public
15 at least 14 calendar days before the meeting of the State Board
16 at which the review or findings are considered. The applicant
17 and members of the public may submit, to the State Board,
18 written responses regarding the facts set forth in the review
19 or findings of the Board staff or reviewing organization.
20 Members of the public shall have until 10 days before the
21 meeting of the State Board to submit any written response
22 concerning the Board staff's written review or findings. The
23 Board staff may revise any findings to address corrections of
24 factual errors cited in the public response. At the meeting,
25 the State Board may, in its discretion, permit the submission
26 of other additional written materials.

1 (d) Upon receipt of an application for a permit, the State
2 Board shall approve and authorize the issuance of a permit if
3 it finds (1) that the applicant is fit, willing, and able to
4 provide a proper standard of health care service for the
5 community with particular regard to the qualification,
6 background and character of the applicant, (2) that economic
7 feasibility is demonstrated in terms of effect on the existing
8 and projected operating budget of the applicant and of the
9 health care facility; in terms of the applicant's ability to
10 establish and operate such facility in accordance with
11 licensure regulations promulgated under pertinent state laws;
12 and in terms of the projected impact on the total health care
13 expenditures in the facility and community, (3) that safeguards
14 are provided which assure that the establishment, construction
15 or modification of the health care facility or acquisition of
16 major medical equipment is consistent with the public interest,
17 and (4) that the proposed project is consistent with the
18 orderly and economic development of such facilities and
19 equipment and is in accord with standards, criteria, or plans
20 of need adopted and approved pursuant to the provisions of
21 Section 12 of this Act.

22 (Source: P.A. 96-31, eff. 6-30-09; 97-1115, eff. 8-27-12.)

23 (20 ILCS 3960/8.5)

24 (Section scheduled to be repealed on December 31, 2019)

25 Sec. 8.5. Certificate of exemption for change of ownership

1 of a health care facility; discontinuation of a health care
2 facility or category of service; public notice and public
3 hearing.

4 (a) Upon a finding that an application for a change of
5 ownership is complete, the State Board shall publish a legal
6 notice on 3 consecutive days in a newspaper of general
7 circulation in the area or community to be affected and afford
8 the public an opportunity to request a hearing. If the
9 application is for a facility located in a Metropolitan
10 Statistical Area, an additional legal notice shall be published
11 in a newspaper of limited circulation, if one exists, in the
12 area in which the facility is located. If the newspaper of
13 limited circulation is published on a daily basis, the
14 additional legal notice shall be published on 3 consecutive
15 days. The legal notice shall also be posted on the Health
16 Facilities and Services Review Board's web site and sent to the
17 State Representative and State Senator of the district in which
18 the health care facility is located. An application for change
19 of ownership of a hospital shall not be deemed complete without
20 a signed certification that for a period of 2 years after the
21 change of ownership transaction is effective, the hospital will
22 not adopt a charity care policy that is more restrictive than
23 the policy in effect during the year prior to the transaction.
24 An application for a change of ownership shall be acceptable if
25 it is based on a Letter of Intent to complete the transaction.
26 For a change of ownership, the Board may, by rule, require

1 submission of transaction documents to verify pertinent
2 information relative to the change of ownership, including, but
3 not limited to: information for the existing facility;
4 outstanding permits; the name of the applicant; the name of the
5 legal entity that will be the licensee or operating entity; the
6 building or site owner; transaction type; application fee;
7 funding type and source; anticipated acquisition price; fair
8 market value of the facility; date of the proposed transaction;
9 narrative description; background of applicant; financial
10 statements; contact person; and certification. For purposes of
11 this Section, "transaction documents" include a Letter of
12 Intent to enter into the proposed change of ownership. If a
13 Letter of Intent is proffered, then the issuance of the
14 certificate of exemption shall be contingent upon the applicant
15 submitting a statement to the Board within 90 days after the
16 closing date of the transaction, or such longer period as
17 provided by the Board, certifying that the change of ownership
18 to the proposed buyer has, in fact, been completed.

19 Where a change of ownership is among related persons, and
20 there are no other changes being proposed at the health care
21 facility that would otherwise require a permit or exemption
22 under this Act, the applicant shall submit an application
23 consisting of a standard notice in a form set forth by the
24 Board briefly explaining the reasons for the proposed change of
25 ownership. Once such an application is submitted to the Board
26 and reviewed by the Board staff, the Board Chair shall sign an

1 exemption letter within 15 business days of receipt of the
2 application if the proposed change of ownership is consistent
3 with the requirements of this Section. If the Board Chair has a
4 conflict of interest, the Chair may request review by the
5 Board. Notwithstanding any other provision of this Act, for
6 purposes of this Section, a change of ownership among related
7 persons means a transaction where the parties to the
8 transaction are under common control or ownership before and
9 after the transaction is completed.

10 Nothing in this Act shall be construed as authorizing the
11 Board to impose any conditions, obligations, or limitations,
12 other than those required by this Section, with respect to the
13 issuance of an exemption for a change of ownership, including,
14 but not limited to, the time period before which a subsequent
15 change of ownership of the health care facility could be
16 sought, or the commitment to continue to offer for a specified
17 time period any services currently offered by the health care
18 facility.

19 (a-3) Upon a finding that an application to close a health
20 care facility is complete, the State Board shall publish a
21 legal notice on 3 consecutive days in a newspaper of general
22 circulation in the area or community to be affected and afford
23 the public an opportunity to request a hearing. If the
24 application is for a facility located in a Metropolitan
25 Statistical Area, an additional legal notice shall be published
26 in a newspaper of limited circulation, if one exists, in the

1 area in which the facility is located. If the newspaper of
2 limited circulation is published on a daily basis, the
3 additional legal notice shall be published on 3 consecutive
4 days. The legal notice shall also be posted on the Health
5 Facilities and Services Review Board's web site and sent to the
6 State Representative and State Senator of the district in which
7 the health care facility is located.

8 (a-5) Upon a finding that an application to discontinue a
9 category of service is complete and provides the requested
10 information, as specified by the State Board, an exemption
11 shall be issued. No later than 30 days after the issuance of
12 the exemption, the health care facility must give written
13 notice of the discontinuation of the category of service to the
14 State Senator and State Representative serving the legislative
15 district in which the health care facility is located.

16 ~~For the purposes of this subsection, "newspaper of limited~~
17 ~~circulation" means a newspaper intended to serve a particular~~
18 ~~or defined population of a specific geographic area within a~~
19 ~~Metropolitan Statistical Area such as a municipality, town,~~
20 ~~village, township, or community area, but does not include~~
21 ~~publications of professional and trade associations.~~

22 (b) If a public hearing is requested, it shall be held at
23 least 15 days but no more than 30 days after the date of
24 publication of the legal notice in the community in which the
25 facility is located. The hearing shall be held in a place of
26 reasonable size and accessibility and a full and complete

1 written transcript of the proceedings shall be made. The
2 applicant shall provide a summary of the proposal ~~proposed~~
3 ~~change of ownership~~ for distribution at the public hearing.

4 (c) For the purposes of this Section "newspaper of limited
5 circulation" means a newspaper intended to serve a particular
6 or defined population of a specific geographic area within a
7 Metropolitan Statistical Area such as a municipality, town,
8 village, township, or community area, but does not include
9 publications of professional and trade associations.

10 (Source: P.A. 98-1086, eff. 8-26-14.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.